

Message Text

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ACTION AF-10

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E.O. 11652: N/A
TAGS: CPRS, MZ
SUBJECT: NATIONALIZATION OF ABECASSIS MOZAMBIQUE LIMITADA

REF: STATE 199496

SUMMARY: NATIONALIZATION OF E.J. ABECASSIS (MOZAMBIQUE)
CONFIRMED BY GPRM. NATIONALIZATION CARRIED OUT UNDER PRO-
VISION OF LAW WHICH DOES NOT REQUIRE COMPENSATION, AND
NONE HAS BEEN OFFERED. 90 PERCENT US OWNED PHARMACEUTICAL
DISTRIBUTOR IS BELIEVED TO HAVE CAPITAL INVESTMENT OF
ABOUT \$75,000. END SUMMARY.

1. BOLETIM (OFFICIAL GAZETTE) OF AUGUST 16, RECEIVED BY
EMBASSY AUGUST 23, CONFIRMS NATIONALIZATION OF SOCIEDADE
COMERCIAL E.J. ABECASSIS (MOZAMBIQUE), LIMITADA, A DISTRI-
BUTOR OF PHARMACEUTICALS.

2. THE NATIONALIZATION WAS ORDERED BY THE MINISTER OF HEALTH
HELDER F.B. MARTINS, UNDER AUTHORITY OF DECREE LAW 18/77
OF APRIL 28, 1977. FOUR OTHER PHARMACEUTICAL DISTRIBUTORS,
NONE-AMERICAN-OWNED, AND ABECASSIS WERE INCORPORATED INTO
THE NEW STATE PHARMACEUTICAL COMPANY, ANNOUNCED AUGUST 16.

3. DECREE LAW 18/77 (MAPUTO'S A-56). PERMITS THE "CONFISCATION"
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WITHOUT COVPENSATION OF PROPERTY AND COMMERCIAL INTERESTS
DEEMED "ABANDONED". A PARTNER, OWNER, SHAREHOLDER OR OTHER
INVESTOR IS SAID TO HAVE ABANDONED HIS IVESTMENT IF HE
"HAVING HAD AN ACTIVE PART IN THE MANAGEMENT OR ITS SERVICE
MIGHT HAVE LOST OR MAY COME TO LOSE RESIDENCE IN MOZAMBIQUE
OR FAIL TO PARTICIPATE IN THE LIFE OF THE COMPANY." LOSS OF
RESIDENCE IN MOZAMBIQUE IS DEFINED AS CONTINUOUS ABSENCE

OF 90 DAYS OR MORE. THE TARGET OF THE DECREE WAS PORTUGUESE BUSINESSMEN AND INVESTORS, FORMERLY LIVING IN MOZAMBIQUE, WHO FLED SHORTLY BEFORE OR SINCE THE INDEPENDENCE OF MOZAMBIQUE IN 1975.

4. ACCORDING TO THE BANK OF MOZAMBIQUE, ABECASSIS HAD CAPITAL ASSETS OF ESC. 2.5 MILLION (\$75,000), OF WHICH ESC. 2.25 MILLION (90 PERCENT OR \$67,500) WERE OWNED BY DAVID REYS, OF NEW YORK, AN AMERICAN CITIZEN. THE OTHER 10 PERCENT OF ABECASSIS (MOZAMBIQUE) WAS OWNED BY MR. PINA-CORREIA, A CITIZEN OF PORTUGAL, WHO, UNTIL JULY, 1976, LIVED IN MAPUTO AND SERVED AS RESIDENT MANAGER OF THE FIRM.

5. UNDER THE CHARTER FILED IN MAPUTO, MARCH 7, 1970, BOTH REYS AND PINA-CORREIA WERE CONSIDERED MANAGING PARTNERS. EITHER COULD ACT AS FULL REPRESENTATIVE OF THE FIRM, AND COULD SINGLY DELEGATE MANAGEMENT OF THE FIRM BY FILLING OUT A PROPERLY NOTARIZED POWER OF ATTORNEY.

6. ALTHOUGH BOTH REYS AND PINA-CORREIA WERE NAMED AS MANAGING PARTNERS, IN FACT, PINA-CORREIA RAN THE COMPANY ON A DAY-TO-DAY BASIS IN MAPUTO, WHILE REYS PAID ONLY OCCASIONAL VISITS TO MOZAMBIQUE FROM HIS HOME IN NEW YORK, USUALLY ONCE A YEAR FOR A DURATION OF ONLY A FEW DAYS EACH TIME. IN 1975, PROBABLY ABOUT THE TIME OF MOZAMBIKAN INDEPENDENCE, REYS REPORTEDLY BECAME QUITE ILL, LIMITED OFFICIAL USE

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AND DID NOT VISIT MOZAMBIQUE AGAIN. HE REPORTEDLY DIED ON DECEMBER 30, 1975.

7. WHEN PINA-CORREIA LEFT MOZAMBIQUE FOR PORTUGAL IN JULY, 1976, HE APPOINTED A MR. MEIRELES TO ACT AS MANAGER FOR ALL LEGAL PURPOSES. EMBASSY DOES NOT KNOW WHETHER DELEGATION WAS DONE IN ACCORDANCE WITH POWER GRANTED TO EITHER REYS OR PINA-CORREIA IN LOCAL CHARTER. IN JANUARY, 1977, MR. JORGE AMARAL REPLACED MEIRELES AS MANAGER OF THE FIRM. HE WAS SERVING IN THIS CAPACITY WHEN DECREEE LAW 18/77 WAS PROMULGATED IN APRIL, 1977, AND KEPT THE FIRM IN CONTINUOUS OPERATION UP THE THE DAY OF NATIONALIZATION.

8. DECREE LAW 18/77 PROVIDES THAT THOSE WHO WISH TO ESTABLISH THAT THEIR LOSS OF RESIDENCE OR "FAILURE TO PARTICIPATE IN THE LIFE OF THE COMPANY" WAS FOR GOOD CAUSE AND WITH NO INTENTION OF "ABANDONMENT" OF PROPERTY INTERESTS HAD 30 DAYS FROM PROMULGATION OF THE DECREE LAW TO PETITION. MR AMARAL TOLD EMBASSY THAT MR. PINA-CORREIA DID PETITION ON HIS OWN BEHALF (FOR THE 10 PERCENT SHARE HE OWNED), BUT THAT HIS APPEAL WAS DENIED. AMARAL TOLD EMBASSY THAT HE NOTIFIED ABECASSIS REPRESENTATIVES IN NEW YORK OF THE

NEW LAW, BUT DID NOT INITIATE ANY PETITION ON BEHALF OF MR. REYS ESTATE, AND DID NOT RECEIVE ANY INSTRUCTION TO DO SO. LAW STATES THAT IF A PETITION IS DENIED OR IS NOT FILED WITHIN 30 DAYS, THERE IS NOT RECOURSE AVAILABLE TO A FORMER OWNER, EMBASSY DOES NOT KNOW IF EXCEPTIONS HAVE BEEN OR CAN BE MADE TO THIS RULE.

9. THE COMPANY MAY CHOOSE TO ASERTAIN IF SUCH PETITIONS UNDER ARTICLE 22.2 OF THE DECREE CAN STILL BE FILED, AND WHETHER LAW WAS PROPERLY APPLIED IN THE PRESENT CASE.

10. SINCE THE PRIVATE PRACTICE OF LAW IS BANNED IN MOZAMBIQUE, EMBASSY IS UNABLE TO RECOMMEND LOCAL LAWYERS.

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11. EMBASSY WILL NOT MAKE REPRESENTATIONS TO THE GOVERNMENT UNTIL INSTRUCTED BY THE DEPARTMENT.

12. A PHOTOCOPY OF DECREE LAW 18/77 IS BEING POUCHED TO THE DEPT. DE PREE

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